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IN THE
Supreme Court of the United States
OCTOBER TERM, 1978

No. 78-1855

PAUL W. MILHOUSE AND EWING T. WAYLAND,
Being Those Persons Upon Whom Service of
Process Was Attempted on Behalf of THE UNITED
METHODIST CHURCH, A Named Defendant Below,
Petitioners,

v.

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF CALIFORNIA,
Respondent,

and

CHARLES W. TRIGG, et al.,
Real Parties in Interest.

**MOTION OF THE ASSOCIATION OF
UNITED METHODIST THEOLOGICAL
SCHOOLS FOR LEAVE TO FILE BRIEF
AS AMICUS CURIAE IN SUPPORT OF
THE PETITION FOR A WRIT OF
CERTIORARI AND BRIEF FILED IN
SUPPORT THEREOF**

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Pursuant to Rule 42 of the Rules of this Court, The Association of United Methodist Theological Schools ("The Association") hereby moves for leave to file a brief, a copy of which is annexed hereto, as *amicus curiae* in support of the Petition for Writ of Certiorari filed by Petitioners Paul W. Milhouse and Ewing T. Wayland, being those persons upon whom service of process was attempted on behalf of The United Methodist Church, a named defendant in the underlying case.

The nature of the interest of The Association in this case arises out of the interest of its component members. The Association is a voluntary unincorporated association composed of thirteen graduate schools of theology approved by the University Senate and by the Division of Ordained Ministry of The United Methodist Church for "affiliation" with The United Methodist Church. The member institutions of The Association are as follows: Boston University School of Theology, Boston, Massachusetts; Drew University, The Theological School, Madison, New Jersey; Duke University, The Divinity School, Durham, North Carolina; Emory University, Candler School of Theology, Atlanta, Georgia; Gammon Theological Seminary, Atlanta, Georgia; Garrett-Evangelical Theological Seminary, Evanston, Illinois; The Iliff School of Theology, Denver, Colorado; Methodist Theological School in Ohio, Delaware, Ohio; Perkins School of Theology, Southern Methodist University, Dallas, Texas; Saint Paul School of Theology Methodist, Kansas City, Missouri; School of Theology at Claremont, Claremont, California; United Theological Seminary, Dayton, Ohio; Wesley Theological Seminary, Washington, D. C. "Affiliation" is a requirement for eligibility for receiving donations from the General

Conference and from any of the Annual Conferences, or United Methodist general boards, foundations or other agencies. The chief executive officer of each institution represents the school in The Association. Eight of these institutions are independent corporate entities; the remaining five are parts of larger universities which are also independent corporate entities. The function of the schools is to provide graduate-professional training to students with a vocation to the Christian ministry.

The interest of The Association on behalf of its members is as follows: The schools receive financial support from members of the churches through annual and general conferences and other agencies of the denomination. In return the schools provide a resource for the training and education of ministers and for research and scholarship in areas of concern to the denomination in fulfilling its stated mission as an arm of Christ's church in the world. Failure to review and reverse the lower court decision will inhibit the religious training of ministers of the denomination through alteration of the denomination's style of life and operation; adversely affect the financial security of these institutions; and cause the drying up of sources of charitable giving both within and without the denomination which could result in the collapse of these institutions. This would all be accomplished not by direct claims against the institutions but by a judgment against the denominational name and flowing downward from that against the institutions.

The unprecedented attempt here to lump all United Methodist units together and treat their individual assets as association assets of some superordinate fictional entity called "The United Methodist

Church" poses a direct threat to the tradition of charitable giving to support worthy causes in general, and particularly to the sources of support necessary for the continuation of private education, including theological education, in the United States.

One impact of the decision below might be to transform and reorganize The United Methodist Church into a polity that ignores the more than 200 years of Methodist development and tradition. This would be contrary to the anticipation and goals of students presently enrolled in or contemplating enrollment in these theological schools preparing for the ministry. Although the connection between such students and the subject matter of the approximately \$5 million securities fraud judgment against "The United Methodist Church" is less than tenuous, nevertheless this would have a serious and blighting effect on their careers. The fraud allegation as well as the substantial judgment to be entered by default is a threat to their commitment and idealism as well as that of the ten million persons who call themselves United Methodists.

The adverse impact presented by the decision below which includes a religious denomination under the term "unincorporated association" should be immediately rectified so as to prevent disastrous impact upon members, bodies and educational institutions such as The Association in continuing their work in the religious education field.

The Association believes that its interest will not adequately be presented by the parties since the decision below will adversely affect religious educational training, the financial security of these institutions and the charitable giving necessary for the operation

of the schools, and these aspects will not be directly addressed in the other briefs. The purpose of the brief for which leave to file is sought herein is to supplement the briefs previously filed on behalf of petitioners and other *amici curiae*.

The brief will address four principal points as follows: (1) the adverse effect of the lower court decision upon students being trained for the ministry in United Methodist theological schools, and the questions raised by the decision under the Establishment and Free Exercise clauses of the First Amendment; (2) the adverse effect of the lower court decision on the assets and property of United Methodist schools and other separate denominational institutions, boards and the like, and the questions raised by the decision under the Due Process clause of the Fifth Amendment; (3) the immediate and disastrous effect that the failure to reverse would have upon charitable giving by local churches and others to theological schools affiliated with The United Methodist Church, thereby constricting the free exercise of religion by damaging the vital function of education of its ministers; and (4) the adverse effect of allowing the Default Order against the denomination to stand, as if it were an unincorporated association or other suable entity rather than only worshippers of similar Christian beliefs under a common name (this will contain brief comments only).

There is a related matter coming into this Court in a petition for Writ of Certiorari which has been filed in *Barr, et al. v. United Methodist Church, et al.*, Supreme Court of the United States, Docket No. 79-245. The essential issues raised in this petition are also raised in that case, and it is respectfully requested that the *Barr* matter be considered and consolidated with this case by this Court.

Counsel for petitioners have consented to this Motion pursuant to a letter which has been filed with the Clerk of the Court. The consent of counsel for respondents was requested but has not been forthcoming.

Respectfully submitted,

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in support of the petition for a
writ of certiorari

To: Office of the Clerk
Supreme Court of the United States
All Counsel Listed on the Annexed
Certificate of Service

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INTEREST OF AMICUS CURIAE

The interest of *amicus curiae* is set forth in the Motion of The Association of United Methodist Theological Schools For Leave To File Brief As *Amicus Curiae* In Support Of Petition For Writ of Certiorari, and will not be reproduced here.

STATEMENT OF THE CASE

The statement of the case contained in the Petition for Writ of Certiorari ("Petition") is adequate and complete and need not be duplicated at length here. Succinctly, the United States District Court for the Southern District of California on August 23, 1978, entered an Order denying Petitioners' motion to dismiss for lack of jurisdiction over the defendant The United Methodist Church. (Appendix B at A-5 of the Petition). In the Court's oral opinion (Transcript, Appendix C at A-9), the Court adopted the view that The United Methodist Church is suable as an unincorporated association, namely, a hierarchical, jural entity, without accepting the unanimous testimony of ecclesiastical experts to the contrary. The Court of Appeals for the Ninth Circuit thereafter denied mandamus to review and that denial is now before this Court. In September 1978 a default was entered, with request to set it aside being denied July 16, 1979, and the matter of requested judgment in excess of \$4 million, including pre-judgment interest, on the basis of alleged common law fraud and securities law violations against the denomination of "The United Methodist Church" is calendared for October 30, 1979.

ARGUMENT

Point I

The Court should grant review in this case because the imposition by the Court below of a hierarchical structure on The United Methodist Church changes the denomination's historical connectional structure by judicial fiat and thereby raises important questions of first impression under the Establishment and Free Exercise clauses of the First Amendment. Students who choose to enter training for the ministry in

the United Methodist schools because of the style and method of life involved in the denomination will be disaffected if the nature of the denomination is changed in violation of their rights of free exercise of religion.

A. Background and Impact on Constitutional Guarantees

The issue of how the Church or a church should be organized has been one of the most divisive in the history of Christendom. The reason for this is that the nature of the organization is intimately bound up with the doctrinal question of the individual's relationship to God and what the church's intermediary role in that relationship should be. In England, where The United Methodist Church finds its origins, this issue was the subject of bitter contention for more than two hundred years following the Protestant Reformation. The central point of dispute was the role of the episcopacy as intermediary between the person and God. Among the consequences of this contention were the so-called Puritan revolution, the English civil war, and the so-called Glorious Revolution. The First Amendment to the Constitution and its free exercise and establishment clauses were among the fruits of this strife, and resulted from the hard-won lessons learned from it.

A Court is simply not free to roam around in the *Book of Discipline* as if it were the bylaws of a secular unincorporated association, construe the terms therein as if they were terms whose meaning is determined by the secular law, ignoring the historical context in which the religious association adopted its form of organization and rules of discipline. The connectional

organization of The United Methodist Church (the "denomination") is rooted in the foundation of the Church by John Wesley, a clergyman of the Church of England, in the mid-Eighteenth Century. From England, Methodism spread to Ireland and then to America. In the beginning, Wesley thought of his people not as constituting a church but simply as forming so many societies composed of people inspired by his sermons and desiring to adhere to the Methodist discipline, which offered active spiritual participation in contrast to the lifeless ritualism into which it seemed that the Church of England had lapsed. The preachers were not ordained, and the members were required to receive the Sacraments in the Church of England. The yearly meetings of people called Methodists are still held in various places (now about 73 places in the United States of America plus additional places in other countries) and called "annual conferences", which are still the fundamental bodies of the Church (United Methodist Constitution, Division Two, Section, I, Article IV; also Section VII, Article II). There is not now and never has been one national or international headquarters, central office, chief executive office or officer, or any controlling entity representing the entire United Methodist Church. Only the General Conference may speak for the denomination. That General Conference is a quadrennial meeting lasting about two weeks consisting of no less than 600 nor more than 1,000 delegates, one-half of whom are ministers and one-half of whom are laity. The General Conference is given legislative power over all matters distinctively connectional, but the powers are restricted and limited. Powers not specifically given to the General Conference are to reside in the annual conferences, individually and separately.

Methodist units are incorporated for specific functions and purposes, such as holding property for preaching and worship, or for the fulfillment of educational, charitable, service, or missionary functions and purposes. The General Conference is not now and never has been incorporated as a legal entity nor is it a continuing control body. Its membership changes substantially from general conference to general conference. To structure the denomination according to secular legal views rather than ecclesiastical ones would do violence to established church polity and to the denomination's self-understanding. The avoidance of incorporation is and has been historically a deliberate choice consistent with the nature of the connectional relationship. For the early American church, valid meetings were held in England as well as in America. The equal validity of these several meetings is of major significance, establishing a loose relationship or "connection" but maintaining the identity and independent authority of each "meeting" or "conference". The validity of these several yearly meetings or conferences shows that there is no central authority or unified body which is valid for the whole movement. This principle has remained true and effective from that day until now, and it is still valid and characteristic of United Methodism. The courts do not understand this.

As to the relationship of the theological schools to the denomination, the oldest standardizing body for higher education in the nation is the University Senate of The United Methodist Church. This body is recognized by the General Conference as the body to determine which educational institutions may claim affiliation with The United Methodist Church. Recognition of affiliation gives the institution the right

to seek financial support from United Methodists and from agencies of The United Methodist Church. "Affiliation" in United Methodism does not connote control, domination or ownership of the "affiliated" unit or institution. There is no financial responsibility or legal responsibility given to the institution on behalf of the denomination, or given to the denomination on behalf of the institution. The use of the name "United Methodist" does create a fellowship, an identity, a connection, a common purpose for worship and service. Individual church bodies, incorporated under law and functioning under their charters and according to stated purposes, do now and should continue to be held legally responsible under the law. There are thousands of those units in United Methodism but collectively they are not a single body called an "unincorporated association" or otherwise.

The history and practice of The United Methodist Church is not that of an existing overarching entity which has responsibility for any or all church units which bear the United Methodist name; each body, agency or organization, including those within this Association of United Methodist Theological Schools, bears its own responsibility.

There was nothing known as "The United Methodist Church" until 1968 when members of the denominations known as "The Methodist Church" and "The Evangelical United Brethren Church" merged to form "The United Methodist Church," at which time there were agreements made between the two groups to operate together under the common name. Historically, the composition of the denomination has been extremely fluid and it has and continues to function under various forms of the connectional church structure as above described.

Students who choose to enter training through the United Methodist schools do so in large part because of the style and method of life involved in the manner of operation of The United Methodist Church as well as its philosophy of a loose horizontal structure rather than a vertical one. If the nature of the denomination should be changed by judicial fiat to be a monolithic structure, this would alter their religious preference, desires and goals in violation of their First Amendment rights of free exercise of religion. Furthermore, a charge of fraud against a whole denomination not organized with an executive to defend and speak for it will have an immediate unfavorable, seriously damaging impact on members of the denomination and would-be ministers. The practical effect is a final one at this stage since to litigate the matter of standing over many years will mean that a whole theological school generation will be affected in the interim.

B. Constitutional Principles

This case raises what appears to be a question of first impression in this Court concerning the application of the establishment and free exercise clauses of the First Amendment. Heretofore, the inquiry concerning to what extent the civil courts are permitted to intrude into the area of religious doctrinal disputes has taken place in the context of intra-church disputes. *Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94 (1952), where the dispute was between two Russian Orthodox factions over the right to the use and occupancy of church property in New York; *Presbyterian Church v. Mary Elizabeth Blue Hull Memorial Church*, 393 U.S. 440 (1969), involving a

property dispute occasioned by the withdrawal of local churches from a general church organization; *Maryland and Virginia Eldership v. Church of God at Sharpsburg, Inc.*, 396 U.S. 367 (1970), involving a property dispute between a general church and secessionist congregations; *Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 695 (1976), involving the removal and defrocking of a bishop and the reorganization of a diocese; and *Jones v. Wolf*, ____ U.S. ____, 99 S. Ct. 3020 (1979), involving a property dispute between two local church factions. In all of these cases, the courts have been presented with a situation where their task was to ratify a decision taken by a church group; that is, two solutions were presented to the court by church groups and the court was to choose one of them. By contrast, this case involves an attempt by outside, non-church plaintiffs, and by the lower court, to impose a reorganization from outside, or to impose their conception of the reality of the church organization upon the church. It is submitted that such an intrusion poses the threat of the most serious kind of state interference in church affairs since the Constitution was ratified, and it appears to The Association of United Methodist Theological Schools ("The Association") that to countenance it would constitute no less than the establishment of a church order by judicial fiat.

In the present posture of the case, certain high officials of United Methodist agencies have been told that they are agents of The United Methodist Church and as such must answer on its behalf. Under the Discipline of The United Methodist Church, however, they are forbidden to do this and as a plain matter of fact they cannot do this. "No person, no paper, no organization has the authority to speak for The United Methodist Church, this right having been re-

served exclusively to the General Conference under the Constitution." *The Book of Discipline of The United Methodist Church* (1976), ¶ 612(1). The United Methodist Church simply has never been and is not organized in a fashion that permits these officials to act for the denomination, to speak for it or to bind the members by their acts.

What seems to be happening here is that the lower court is straining so hard to employ the "neutral principles" approach mandated by the decisions of this Court in the intra-church property dispute cases cited above that it is ignoring the fundamental nature of the organization and governance of the denomination in accordance with its ecclesiastical doctrines. Ignoring the affidavits submitted by the petitioners in support of their contention that The United Methodist Church is a loose connection or federation of individuals and organizations, the lower court based its decision on its own reading of the *United Methodist Book of Discipline* (1976) (hereafter "the *Discipline*"). Moreover, it read the *Discipline* as if it were the by-laws of any secular voluntary association. It is ironic that this result should be reached, but it appears to The Association that this result is attributable to the lower court's attempt to adhere to the ruling of this Court in *Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 696 (1976).

In *Milivojevich*, this Court reversed the Supreme Court of Illinois, which had invalidated the removal and defrockment of a diocesan bishop by the Holy Assembly of Bishops and the Holy Synod of the Serbian Orthodox Church. The Supreme Court of Illinois grounded its decision on the finding that the bishop's removal and defrockment were not in accordance with the Serbian Orthodox Church's own prescribed procedures and penal code. This Court held that the First

Amendment as applied to the states by the Fourteenth Amendment prohibits the making of such an inquiry by a civil court into the constitutional provision of church government. This Court stated:

We will not delve into the various church constitutional provisions relevant to this conclusion, for that would repeat the error of the Illinois Supreme Court. It suffices to note that the reorganization of the Diocese involves a matter of internal church government, an issue at the core of ecclesiastical affairs. . . .

426 U.S. at 721.

And throughout this Court's opinion there are stern warnings against a civil court's allowing itself to make any inquiry into any aspect of intrachurch disputes that might involve their becoming "entangled in essentially religious controversies or interven[ing] on behalf of groups espousing particular doctrinal beliefs"; and that "religious controversies are not the proper subject of civil court inquiry." This Court further stated,

Indeed, it is the essence of religious faith that ecclesiastical decisions are reached and are to be accepted as matters of faith whether or not rational or measurable by objective criteria. Constitutional concepts of due process, involving secular notions of 'fundamental fairness' or impermissible objectives, are therefore hardly relevant to such matters of ecclesiastical cognizance.

426 U.S. at 715-16 (footnote omitted).

Having wrapped all matters of religious belief in an ecclesiastical shroud that is impenetrable to the civil courts, then, this Court left them to fall back on the "neutral principles" or "formal title" approach of

Presbyterian Church v. Mary Elizabeth Blue Hull Church, Inc., 393 U.S. 440 (1969).

In *Hull*, the Court held that although the First Amendment severely circumscribes the role of the civil courts in resolving church property disputes, nevertheless "there are neutral principles of law, developed for use in all property disputes, which can be applied without 'establishing' churches to which property is awarded." 393 U.S. 440 at 449. The Court suggested that religious organizations must structure relationships involving church property in such a way as to allow the civil courts to resolve disputes over such property without having to resolve ecclesiastical questions. 393 U.S. at 449. This Court reaffirmed this basic principle last term in *Jones v. Wolf*, ____ U.S. ____, 99 S. Ct. 3020, 3026 (1979).

The foregoing cases, as previously stated, concerned intra-church disputes; they did not involve the resolution of a conflict concerning the fundamental nature of the ecclesiastical polity involved, since that was not in dispute in those cases.

The problem is that the lower court in this case seems to have applied the principles of these cases to the question of how The United Methodist Church is organized. Earnestly striving to avoid trespassing in the forbidden field of ecclesiastical doctrine as it applied to the Methodist connection, the court has ignored the fact that how a church is organized is a matter of vital religious concern. Instead, the court has treated the issue as if the matter of church organization were no more than a matter of administrative convenience.

The free exercise of religion encompasses the freedom to organize a religious polity in accordance with the wishes of its members whether rational or not. *Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94, 114-116 (1952). The people who call themselves members of The United Methodist Church have made their choice, and this choice bears no recognizable relationship to the fictitious entity created for them by the lower court in this case.

Point II

The assets and property of United Methodist schools and separate denominational institutions, boards and the like, should not be placed in jeopardy and subject to a broadside judgment against the loosely designated "The United Methodist Church" in violation of their Fifth Amendment rights not to be deprived of their property without due process of law.

A. Historical Background

The first properties used primarily for Methodist purposes by John Wesley were various meeting rooms. Subsequently, he became concerned about the ownership of these properties and consulted three lawyers in London who prepared a model property deed to be used by Wesley's followers. The deed provided for specific individual trustees who would permit Wesley and those he appointed to use the property for denominational purposes and after his death to permit the use of the property by "such persons as shall be appointed at the yearly Conference of the people called *Methodists*, in London, Bristol, Leeds, Manchester, or elsewhere . . ." The deed was printed in the

1763 minutes of the yearly Conference. The deed was enrolled in chancery under the hand and seal of Wesley, February 28, 1784. The earliest deeds to individual trustees for Methodist houses of worship in America were copied from the model deed used in England. The language of all the early deeds assumes a yearly meeting of Methodists but the meeting is not in one place only but in several places.

Property belonging to the denomination of United Methodists, whether real estate or personalty, has been primarily local. Local trustees are elected, according to the law of the church, to maintain that property and to see that it is used according to its designated purposes. Whenever property and/or monetary assets are set aside for use beyond the local churches, the property is designated for specified purposes and uses of annual, jurisdictional or general Conference Boards and other units, each of which is a jural entity. There is no overall title-holding unity called "The United Methodist Church" or by any other name. United Methodism maintains to this day a functional attitude toward property and funds. All property and funds of whatever kind are for the preaching of the gospel and the worship of God, and for the service of people and of the nation through charitable and service acts. Church property is to this day held in trust at the local and conference levels of mission consistent with the principles established in John Wesley's original "model deed."

B. Constitutional Principles

In the case at bar, the validity of that historic trust methodology is challenged. Funds voluntarily given

for these specific charitable, educational or service functions could be diverted, according to the claims of plaintiffs, and used contrary to their designated purposes. Such claims are contrary to the meaning of connectionalism in United Methodism, are contrary to the polity and structure of United Methodism, and would if allowed to stand constitute a major hindrance to the charitable, educational and service activities of the Church.

If the Court should find that being related to the church and bearing the United Methodist name opens a church-related institution to levy for legal judgment entered against the denomination as a whole and unrelated to the institution's own life and activity, a school established for religious purposes might be rendered bankrupt. Out of prudence, schools may well be forced to consider dropping their church relationships in order to protect their assets and property from invasion and diversion. Considering the need of the church to have institutions for the training of its clergy and leadership, this possibility is disastrous.

If claims are allowed to stand against a denomination, not only will the self-understanding and organizational structure of United Methodism be changed but the charitable and philanthropic service of all national church bodies in the nation will be threatened and potentially ended. But there is relief to claimants having valid claims because individual church bodies, incorporated under law and functioning under their charters, are now and should continue to be held legally responsible under the law. There are thousands of those units in United Methodism but collectively they are not a single body known as an "unincorporated association" or otherwise.

The assets and property of United Methodist schools and separate denominational institutions, boards, funds and the like should not be placed in jeopardy and made subject to a broadside claim through the medium of the loosely designated name of "The United Methodist Church" as this would be in violation of their Fifth Amendment rights not to be deprived of their property without due process of law. The points here raised apply with equal validity with respect to the numerous funds established by the annual and general conferences, such as the Ministerial Education Fund, the Black College Fund, the Temporary General Aid Fund and the like.

Point III

Failure to reverse will have an immediate and disastrous effect upon charitable giving by local churches and others to theological schools affiliated with The United Methodist Church, thereby constricting the free exercise of religion by damaging the vital function of education of its ministers.

The Association of United Methodist Theological Schools ("The Association") is composed of institutions which are approved by the University Senate and by the Division of Ordained Ministry of The United Methodist Church for "affiliation" with the denomination. The University Senate is an accrediting agency and the Division of Ordained Ministry is responsible for maintaining the educational standards of the United Methodist ordained ministry. "Affiliation" is a requirement for the receipt of financial support from the various agencies of the denomination. The schools get financial support from the denomination directly from the annual conferences and, in

addition, through the Ministerial Education Fund established by the 1968 General Conference in order to expand the financial support for recruitment and education and to equip the annual conferences to meet the increased demands on them in these areas. They receive an even greater share of their financial support from non-denomination sources. If the lower court decision is allowed to stand and assets of schools, boards, funds and the like are attachable, donations by Methodists and others to these church agencies, including the theological schools, will dry up, since no one will contribute to an organization which will be unable to use the money for the purposes intended and where there exists the threat that the funds donated will be diverted to pay claims against an unrelated organization.

Point IV

The Default Order against "The United Methodist Church" should not be allowed to stand because the denomination, consisting only of worshippers of similar Christian beliefs under a common name, is not an unincorporated association or a suable entity.

This point is well briefed in the Petition and in the Motion of the National Council of the Churches of Christ in the United States of America For Leave To Appear As *Amicus Curiae* In Support Of The Petition For Writ of Certiorari and Brief Conditionally Filed In Support Thereof. The arguments expressed therein are adopted herein but no purpose would be served by repeating them here.

There is no question in this case of the membership of the denomination attempting to shield itself behind the First Amendment from liability in the civil courts

for alleged wrongdoing. The separate United Methodist corporations and unincorporated associations are suable and can be held accountable. In fact, the Pacific and Southwest Annual Conference, the General Council on Finance and Administration and the Pacific Methodist Investment Fund (all corporations) are already defendants in the underlying case. However, this case involves an unprecedented attempt in addition by an outside group to define a non-hierarchical religious denomination as a hierarchical one for its own convenience, and in the process to inflict upon innocent individual and corporate members of the denomination the penalties of alleged wrongdoing in which they were not involved and could not properly have been involved under the ecclesiastical law of the denomination.

If immediate relief is not granted the theological schools and the denomination will suffer irreparable harm during *lis pendens* which might be a period of five years or more before the litigation is concluded. Adversely affected would be members of the denomination, students, schools, charitable donors, all the programs of social service, funds, agencies, boards, and other institutions of the Church. The impact on ten million Methodists, and other denominations, during this interim period before the issue is resolved would be catastrophic. Therefore the issue should now be resolved.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the Petition for Writ of Certiorari should be granted by this Court to review the judgment of the United States Court of Appeals for the Ninth Circuit.

Respectfully submitted,

THOMAS M. RAYSOR

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